IN THE HIGH COURT OF JUDICATURE AT BOMBAY
APPELLATE JURISDICTION

CRIMINAL APPEAL NO. 7 OF 2007

Rafik Gulam Husen Shaikh
Presently in Nasik Road
Central Prison, Nasik ..Appellant
V/s
The State of Maharashtra ..Respondent.

None for the appellant.

Mrs. Deshmukh, APP for the State.

CORAM : J.H. BHATIA, J.

DATE : 17TH APRIL, 2007.

ORAL JUDGMENT

. Heard Mrs. Deshmukh, learned A.P.P. Ms. D.M. Shah, Advocate, who was appointed for the appellant, who is in jail remained absent. Perused the record.

2. The record reveals that the appellant was produced before the Additional Chief Metropolitan Magistrate, 2nd Court, Mazgaon, Mumbai in Criminal case Nos.7/PW/2006 and No.12/PW/2006 on 14/6/2006. In both the cases the charges were framed and he pleaded guilty. On his pleading guilty in Criminal Case No. 7/PW/2006 he was convicted for the offence punishable under section 392 of IPC and was sentenced to undergo R.I.

for three years and to pay fine of Rs.5,000/- and in default to pay fine to undergo S.I. for six months. He was also convicted for the offence punishable under section 37(1)(a) of Bombay Police Act and was sentenced to undergo R.I. for three months and to pay fine of Rs.500/- and in default to pay fine to undergo S.I. for one month. The learned Additional Chief Metropolitan Magistrate did not give any direction that the substantive sentence of imprisonment of both the counts shall run concurrently. Similarly in Criminal Case No.12/PW/2006 he was convicted for the offence punishable under section 457 and 380 of IPC and on each counts he was sentenced to undergo R.I. for one year and to pay fine of Rs. 5000/- and in default to undergo S.I. for six months. In this case also the learned Additional Chief Metropolitan Magistrate did not give any direction that substantive sentences of imprisonment on both the counts shall run concurrently. In view of this order, in both the cases, the accused will be required to undergo total R.I.for five years and three months and in default to pay fine to undergo S.I.for one year and seven months. Thus, practically he will be in jail for about seven years. By this appeal, submitted through jail, the appellant has prayed for leniency in

the award of sentence and particularly he prays that the substantive sentence of imprisonment may be made concurrent in both the cases. According to him, he is a poor person and because of this, he could not engage any advocate and could not contest the case. It appears that because of his poverty and his inability to engage the lawyer to defend him, he had pleaded guilty in both the cases. Naturally he expected some lenient view from the Court in respect of sentence. He has nothing to say about the quantum of sentence awarded for each charge but according to him in the interest of justice the substantive sentence of imprisonment should be directed to run concurrently. Mrs. Deshmukh, learned APP concedes that taking into consideration the request made by the accused may be considered sympathetically. Offences in both the cases were against property and appears to have been committed during same period. Plea in both the cases was recorded at the same time on the same day. Taking into consideration all these circumstances, I find that it will be in the interest of justice to make the sentence of imprisonment on all the counts in both the cases concurrent. In fact now when the era of plea bargaining is ushered in the country, the accused persons should be encouraged to plead guilty

to avoid litigation to speed up the disposal of the criminal cases.

3. For the aforesaid reasons, the appeal is allowed.

. I hereby direct that the substantive sentence of imprisonment on all the counts in Criminal Case Nos. 12/PW/2006, as well as Criminal case No 7/PW/2006 shall run concurrently.

(J.H. BHATIA, J.)